



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 Post Office Square, Suite 100
Boston, Massachusetts 02109-3912

CERTIFIED MAIL RETURN RECEIPT REQUESTED
URGENT LEGAL MATTER -- REQUIRES PROMPT RESPONSE

January 13, 2011

Paul Derecktor, President
Derecktor Shipyards Conn., LLC
837 Seaview Avenue
Bridgeport, Connecticut 06607-2100

Re: Administrative Order and Reporting Requirement

Dear Mr. Derecktor:

The U.S. Environmental Protection Agency, Region 1 ("EPA") is issuing Derecktor Shipyards Conn., LLC ("Derecktor") the enclosed Administrative Order ("AO") and Reporting Requirement ("RR") pursuant to Sections 113 and 114 of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7413 and 7414, respectively.

The AO addresses EPA's findings that Derecktor has violated, and is still in violation of, certain requirements of the CAA relating to 40 C.F.R. Part 63, Subpart II, the National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) (the "Shipbuilding NESHAP"), and to the Title V operating permit program. The violations occurred at Derecktor's facility in Bridgeport, Connecticut. The RR seeks information about the Bridgeport facility's compliance status in relation to other aspects of the CAA and its implementing regulations.

You may confer with EPA about the enclosed AO and its findings. To schedule a conference, please have your legal counsel contact me at (617) 918-1884 within fourteen days of the date of this letter. If Derecktor chooses not to be represented by legal counsel in this matter, you may call me directly at the same number.

Sincerely,


Gregory Dain, Senior Enforcement Counsel

Enclosure

cc: Joan Jouzaitis, EPA
Bob Girard, CT DEP

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1 – NEW ENGLAND**

IN THE MATTER OF

Derecktor Shipyards Conn., LLC
837 Seaview Avenue
Bridgeport, CT 06607-2100

Proceeding under Sections
113 and 114 of the Clean Air Act

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**ADMINISTRATIVE ORDER
AND
REPORTING REQUIREMENT**

STATUTORY AUTHORITY

1. The United States Environmental Protection Agency Region 1 (“EPA”) issues this Administrative Order and Reporting Requirement (“AO” and “RR”) to Derecktor Shipyards Conn., LLC (“Derecktor”) for violations of the National Emission Standards for Hazardous Air Pollutants for Shipbuilding and Ship Repair (Surface Coating) (the “Shipbuilding NESHAP”) and Title V operating permit requirements.
2. This AO is issued under the authority of Section 113(a)(3) of the Clean Air Act (“CAA”), 42 U.S.C. § 7413(a)(3). Section 113(a)(3) of the CAA provides that EPA may issue an order requiring compliance with requirements or prohibitions of subchapter I of the Act (which includes the Shipbuilding NESHAP promulgated under Section 112 of the CAA) and subchapter V of the CAA (which includes the Title V operating permit requirements of Section 503 of the CAA, 42 U.S.C. § 7661b).
3. Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1), gives EPA the authority to require

a company to submit such information as EPA may reasonably require to determine the company's compliance with the CAA and its implementing regulations.

BACKGROUND INFORMATION

4. Derecktor builds and repairs private and/or commercial barges, boats, ships, and other vessels at its facility located in Bridgeport, Connecticut (the "Bridgeport facility"). Derecktor began operations at the Bridgeport facility in or around 2001.
5. Derecktor conducts surface coating and related operations on private and/or commercial barges, boats, ships, and other vessels (and parts thereof) at the Bridgeport facility, utilizing, among other things, paints, solvent thinners, and fairing compounds (collectively referred to herein as "coatings"). Many of the coatings contain volatile organic compounds ("VOCs"), hazardous air pollutants ("HAPs"), and volatile organic hazardous air pollutants ("VOHAPs"), as those terms are defined at 40 C.F.R. § 63.782.
6. On or about September 28, 2010, representatives from EPA and the Connecticut Department of Environmental Protection ("CT DEP") inspected the Bridgeport facility.

LEGAL AND FACTUAL BASES

Shipbuilding NESHAP

7. The Shipbuilding NESHAP, codified at 40 C.F.R. Part 63, Subpart II, applies to ship building and ship repair operations at any facility that is a major source. 40 C.F.R. § 63.781(a). The term "major source" is defined by the Shipbuilding NESHAP as "any source that emits or has the potential to emit, in the aggregate, 9.1 megagrams per year (10 tons per year) or more of

any HAP or 22.7 megagrams per year (25 tons per year) or more of any combination of HAP[s].”

Section 112 of the CAA, 42 U.S.C. § 7412, defines the term “major source” to include any source that has the potential to emit 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAPs.

8. In calendar year 2009, the Bridgeport facility purchased more than 1,500 gallons of coatings containing VOCs, HAPs and VOHAPs, and used more than 3,000 gallons of coatings containing VOCs, HAPs and VOHAPs.

9. Sections 22a-174-3b and 3c of the Connecticut Regulations of State Agencies (“CRSA”) establish conditions for limiting potential air pollutant emissions to below major source thresholds. In calendar year 2009, the Bridgeport facility did not meet the conditions of CRSA Sections 22a-174-3b and 3c, based on its purchase and use of coatings as described in paragraph 8.

10. On or before December 31, 2009, the Bridgeport facility had, and still has, the potential to emit equal to or greater than 25 tons per year of a combination of HAPs, including, but not limited to, glycol ethers, ethyl benzene, toluene and xylene. Therefore, the Bridgeport facility was, on or before December 31, 2009, and currently remains, a major source of HAPs subject to the requirements of the Shipbuilding NESHAP.

11. Pursuant to 40 C.F.R. § 63.784(b), the Shipbuilding NESHAP applies to each owner and operator of an existing unaffected area source that increases its emissions of (or its potential to emit) HAP such that the source becomes a major source. Such sources are required to comply with the Shipbuilding NESHAP requirements within 12 months of becoming a major source.

12. Pursuant to 40 C.F.R. §§ 63.787(a), 63.9(b)(1)(ii) and 63.9(b)(2), Derecktor was required

to submit to EPA written notification that the Bridgeport facility is subject to the Shipbuilding NESHAP within 180 days of becoming subject.

13. Pursuant to 40 C.F.R. § 63.787(b)(1), Derecktor was required to submit, along with the initial notification described in paragraph 12, above, an implementation plan addressing compliance with the requirements set forth in 40 C.F.R. § 63.787(b)(3) of the Shipbuilding NESHAP.

Title V Operating Permit

14. Section 503(c) of the CAA, 42 U.S.C. § 7661b, and EPA regulations at 40 C.F.R. § 70.5 require “major sources,” defined to include any source defined as major under Section 112 of the CAA, to apply for a Title V operating permit within 12 months of becoming subject to a Title V operating permit program approved or promulgated under Title V of the CAA, such as Connecticut’s approved Title V operating permit program.

15. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides that, after the effective date of any permit program approved or promulgated by EPA under Title V, it shall be unlawful for any person to operate, among other sources, a major source except in compliance with a permit issued by a permitting authority pursuant to Title V.

16. The State of Connecticut’s Title V operating permit program was approved by EPA on May 13, 2002. See 67 FR 31966. Section 22a 174-33 of the Regulations of Connecticut State Agencies, contained within the State of Connecticut’s approved Title V operating permit program, requires major sources, including major sources of HAPs, to apply for a Title V operating permit within 12 months of commencing operations or within 12 months of becoming a major source.

17. Pursuant to Sections 502(a) and 503(c) of the CAA, 42 U.S.C. §§7661a(a) and 7661b, Derecktor was required to apply for a Title V operating permit no later than 12 months after becoming a major source, i.e., on or before December 31, 2010, and was also required to operate the Bridgeport facility in accordance with a Title V permit issued by the State of Connecticut.

FINDINGS

18. Based on the foregoing, EPA finds that Derecktor has violated, and is still in violation of, the Shipbuilding NESHAP and/or the CAA, by:

- a. Failing to submit to EPA within 180 days of becoming subject to the Shipbuilding NESHAP written notification that the Bridgeport facility is subject to the Shipbuilding NESHAP, in violation of 40 C.F.R. §§ 63.787(a), 63.9(b)(1)(ii) and 63.9(b)(2);
- b. Failing to submit, along with the initial notification described in paragraph 18.a., above, an implementation plan addressing compliance with the requirements set forth in 40 C.F.R. § 63.787(b)(3) of the Shipbuilding NESHAP, in violation of 40 C.F.R. § 63.787(b)(1); and
- c. Failing to apply for a Title V operating permit no later than 12 months after becoming a major source of HAP, i.e., on or before December 31, 2010, and to operate in accordance with a Title V permit issued by the State of Connecticut, in violation of 502(a) and 503(c) of the CAA, 42 U.S.C. §§7661a(a) and 7661b.

ADMINISTRATIVE ORDER

19. Within 30 (thirty) days of receipt of this AO, Derecktor shall submit to EPA written

notification that the Bridgeport facility is subject to the Shipbuilding NESHAP, as required by 40 C.F.R. §§ 63.787(a), 63.9(b)(1)(ii) and 63.9(b)(2).

20. Within 90 (ninety) days of receipt of this AO, Derecktor shall submit to EPA an implementation plan addressing compliance with the requirements set forth in 40 C.F.R. §63.787(b)(3) of the Shipbuilding NESHAP, as required by 40 C.F.R. § 63.787(b)(1).

21. Derecktor shall comply as expeditiously as practicable, but in no event later than 90 (ninety) days from receipt of this AO, with all provisions of the Shipbuilding NESHAP not identified in paragraphs 19 and 20, above, including, but not limited to, the VOC and VOHAP content and usage requirements applicable to coatings.

22. Within 120 (one hundred and twenty) days of receipt of this AO, Derecktor shall submit a Title V operating permit application to the CT DEP.

REPORTING REQUIREMENT

23. Derecktor shall submit the following information to EPA and the CT DEP within 45 days after the effective date of this AO/RR. If Derecktor does not possess any or all of the records or documents that respond to a specific request below, Derecktor shall state in writing that no such records or documents exist, and explain why. For each and every question or specific request for information below, the term "Derecktor" shall include Derecktor Shipyards Conn., LLC, its employees, and contractors. For each and every question or specific request for information below, the terms "boat" and "ship" shall be interpreted as defined in 40 C.F.R. Part 63, Subparts VVVV and II, respectively.

24. Specifically, Derecktor shall:

- a. Provide the following information about Derecktor Shipyards Conn., LLC:
 - i. Describe the ownership and business structure;
 - ii. Indicate the date and state of incorporation;
 - iii. List any partners or corporate officers;
 - iv. List any parent and subsidiary corporations and any related business entities;
 - v. Indicate the number of employees at each Derecktor Shipyard facility (e.g., Bridgeport, CT; Mamoraneck, NY and Dania, FL); and
 - vi. Indicate the company's net worth (if not available, indicate gross annual receipts since 2002).
- b. Provide the dates on which Derecktor began actual construction of, and entered into binding agreements and/or contracts for, construction of the Bridgeport facility. For purposes of this RR, the phrase "began actual construction" shall have the meaning of the phrase "begin actual construction" set forth in 40 C.F.R. §51.165(a)(1)(xv). For purposes of this RR, "binding agreements and/or contracts" refers to agreements or contractual obligations that cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.
- c. For the time period 2008 to the present, provide the dates on which any physical changes were made to the Bridgeport facility that could affect VOC, HAP and

VOHAP emissions (e.g., the addition of spray guns, the construction of docks).

- d. Provide the date on which Derecktor began surface coating operations at the Bridgeport facility. If Derecktor conducted surface coating operations at any other facilities in New England prior to beginning operations at the Bridgeport facility, provide the street address of each location and the dates during which Derecktor operated at each location.
- e. For the approximately twenty three acres of the Bridgeport facility, provide:
 - i. The name and a description of each building or other structure, including, but not limited to, the dry dock, spray booths, and painting areas at the facility;
 - ii. For the time period 2008 to the present, the date that actual construction began on each building or other structure at the facility;
 - iii. A description of the activities that are conducted within each building or other structure;
 - iv. A description and the specific location of any and all activities, including, but not limited to, coating operations, that are conducted outside of any building or other structure at the Bridgeport facility;
 - v. A description of any heating, ventilation, air conditioning system, and any particulate or other type of air pollution control system at the Bridgeport facility; and
 - vi. A current diagram of the facility.
- f. State whether Derecktor applies coatings to any marine or freshwater boat, ship or

other vessel (or any part(s) thereof) used for military or commercial purposes (regardless of whether or not self-propelled) at the Bridgeport facility. For purposes of this RR, the terms “coating” or “coatings” refers to: 1) paint and other materials such as paint thinners, cleaners, solvents, fairing compounds, and adhesives applied to the surface of ships, boats, or other marine vessels; and 2) the meaning of the term as defined at 40 C.F.R. § 63.782 of the Shipbuilding NESHAP.

- g. State whether Derecktor manufactures hulls or decks of ships and/or boats at the Bridgeport facility. If so, identify the primary manufacturing materials used (e.g., fiberglass, aluminum, etc.).
- h. State whether Derecktor applies coatings to any other type of vessel (not identified in item 24.g., above) at the Bridgeport facility. If so, describe the type(s) of vessel(s) including their primary use(s).
- i. State whether Derecktor applies coatings to any structure, part, or piece of a boat, ship or any other vessel that is not attached to such vessel. If so, describe the type(s) of parts or pieces and their primary uses, and indicate how and where at the Bridgeport facility the coatings are applied.
- j. Describe any and all grinding and sandblasting activities that occur at the Bridgeport facility. Include in the description the locations of such activities, and any measures Derecktor takes to minimize or control the emissions of particulates or other pollutants to the ambient air from such activities.
- k. For each boat, ship or other vessel serviced, built, constructed, and/or repaired by

Derecktor during the time period 2008 to the present, indicate:

- i. The name of the boat, ship or other vessel;
 - ii. The type of boat, ship or other vessel (e.g., military, commercial, private pleasure craft);
 - iii. The primary material of the boat, ship or other vessel (e.g., metal, wood, fiberglass);
 - iv. The size of the boat, ship or other vessel and approximate coated surface area of the hull and top side of each, if applicable;
 - v. The type of work conducted (e.g., repair or surface coating); and
 - vi. Each coating used.
1. At the Bridgeport facility, for the time period 2008 to the present:
- i. List each and every coating application method (e.g. brush, roll, spray gun, aerosol can) employed by Derecktor, and the number of pieces of equipment used for each application method conducted at the facility;
 - ii. Estimate the percentage of coating application used with each method identified in response to item 24.1.i., above, in relation to the total amount coating used for all methods combined;
 - iii. Explain why different coating methods are used in different circumstances; and
 - iv. Specify each and every building and/or department within which the different coating operations occur at the Bridgeport facility.
- m. Provide copies of all records Derecktor has that relate to monthly purchases for

the Bridgeport facility of any and all coatings for each year during the time period 2008 to the present. Also provide copies of all records Derecktor has that relate to monthly usage at the Bridgeport facility of any and all coatings for each year during the time period 2008 to the present. Where possible provide the information in an electronic spreadsheet, in excel or compatible format.

Specifically, provide:

- i. Copies of all logs, invoices, purchase orders, or receipts relating to shipments of the coating;
- ii. Copies of the Material Safety Data Sheet, Environmental Data Sheet, Technical Specification or any other information pertaining to the physical and chemical properties of the coating, including, but not limited to, VOC, HAP and VOHAP content (e.g., in pounds of VOC, HAP and VOHAP per gallon of coating);
- iii. The type of each coating using the categories specified in Table 2 to Subpart II of Part 63 (where applicable);
- iv. The amount of the coating purchased during each month (in gallons);
- v. The amount of the coating applied during each month (in gallons) and its peak daily consumption;
- vi. Whether thinner was added to the coating prior to its application and, if so, the amount added;
- vii. The as-applied VOC and VOHAP content of the coating; and
- viii. The location(s) at the facility where the coating was used.

- n. Provide for the period 2008 to the present, monthly totals (in pounds) of VOC, HAP and VOHAP emissions from all coating and other activities at the Bridgeport facility. Explain any and all assumptions that Derecktor made in performing the calculations.
- o. For the time period 2008 to the present, estimate the numbers of hours per day, days per week, and weeks per year Derecktor applied coatings to boats, ships and any other vessels at the Bridgeport facility. Explain the reasons for the Bridgeport facility's current surface coating schedule. Explain any physical or other limitations inherent in the Bridgeport facility that would preclude Derecktor from applying surface coatings 24 hours per day, 7 days per week, and 52 weeks per year. Indicate for the time period 2008 to the present the peak daily consumption of gallons of coatings at the Bridgeport facility.
- p. For each spray gun used to apply coatings at the Bridgeport facility for the time period 2008 to the present provide:
 - i. The manufacturer's name and model number;
 - ii. The throughput capacity of the spray gun;
 - iii. The month and year the spray gun was purchased;
 - iv. The month and year the spray gun was first installed or used at the facility;
and
 - v. The month and year the spray gun was removed from the facility or disposed of, if applicable.
- q. For each temporary or permanent spray booth at the Bridgeport facility, or that

existed at the facility at any time between 2008 and the present, provide:

- i. The date that actual construction began on the spray booth;
 - ii. The date that actual construction was completed on the spray booth;
 - iii. The date that any surface coating operations began in the spray booth;
 - iv. A description of any air pollution control equipment or best management practices utilized to limit air pollution from the spray booth; and
 - v. Any and all documents related to the purchase and/or construction of the spray booth, including, but not limited to, contracts, invoices, purchase orders, etc.
- r. For each cold cleaning degreasing unit that Derecktor uses, or has used, at the Bridgeport facility for the time period 2008 to the present, provide:
- i. The date each cold cleaning unit was purchased;
 - ii. The date each cold cleaning unit was installed;
 - iii. The data each cold cleaning unit was put into operation;
 - iv. The name of the manufacturer, model number, size, production rate, volume of solvent typically kept within the unit, and any other operational specifications of the unit;
 - v. The name of the solvent(s) used within the unit on a month by month basis; and
 - vi. Any and all documents related to the purchase and/or construction of the spray booth, including, but not limited to, contracts, invoices, purchase orders, etc.

- s. For the time period 2008 to the present, provide copies of all correspondence
Derecktor (or any of its predecessors) has had with state and federal
environmental agencies regarding emissions of air pollution at the Bridgeport
facility, including, but not limited to, copies of:
 - i. All permits issued;
 - ii. All permit applications; and
 - iii. Any requests for permit modifications.
- t. Provide copies of the calculations and any other supporting documentation
Derecktor utilized to complete the CT DEP Pre Inspection Questionnaire dated
April 27, 2010, and which was provided to EPA and CT DEP inspectors in
September 2010.
- u. For all fabric rags and towels purchased or leased for use at the Bridgeport facility
for the time period 2008 to the present, provide:
 - i. The names of all suppliers;
 - ii. Copies of any written agreements containing restrictions or limitations on
the use of such rags or towels;
 - iii. A description of the specific locations (by department name and building)
as to where such rags and towels are used;
 - iv. The names of the companies to which such rags and towels were shipped
for laundering, and any and all documents relating to such shipments;
 - v. The names of the companies to which such rags and towels were shipped
for disposal, and any and all documents relating to such shipments; and

- vi. Any and all written policies Derecktor has pertaining to the use, storage or disposal of such rags and towels.

Submit the information required above to the following addresses:

Susan Studlien, Director
Attn: Joan Jouzaitis
Office of Environmental Stewardship
US EPA Region I
5 Post Office Square, Suite 1100
Mail Code: OES04-2
Boston, MA 02109-3912

AND

Robert Girard, Assistant Director
Air Compliance and Field Operation
CT Department of Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

25. Derecktor may, if desired, assert a business confidentiality claim covering part or all of the information in the manner set forth in 40 C.F.R. § 2.203(b). EPA will disclose information covered by such a claim only to the extent, and according to the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when EPA receives it, EPA may make it available to the public without further notice to Derecktor. Please be aware that the State of Connecticut may have different rules and regulations governing the protection of confidential business information. Derecktor should read the regulations cited above carefully before asserting a business confidentiality claim, since certain categories of information, such as emission data, are not properly subject to such a claim.

ENFORCEMENT

26. Failure to take the actions and to provide information required by this AO/RR could result in enforcement action by EPA under Section 113 of the Act. Among other remedies, Section 113 establishes criminal penalties for false statements, representations, or certifications to EPA.

27. After the issuance of this AO, EPA may take any or all of the following actions: issue a further order requiring compliance with the Act; issue an administrative penalty order for up to \$ 37,500 per day for each violation; or bring a civil judicial action seeking an injunction and civil penalties. See Sections 113(a), (b), and (d) of the Act, 42 U.S.C. §§ 7413(a), (b), and (d), 40 CFR Part 19 (Clean Air Act judicial and administrative penalties raised from \$25,000 to \$37,500). Be advised that Section 113(e)(2) of the Act, 42 U.S.C. § 7413(e)(2), contains provisions that affect the burden of proof with respect to violations which continue following issuance of a notice of violation. This AO does not resolve Derecktor's liability for past violations of the Act or for any violations that continue from the date of this AO up to the date of compliance.

28. If Derecktor has knowingly violated the requirements of the Act, Derecktor and its responsible personnel may be subject to criminal penalties under Title 18 of the United States Code, imprisonment for not more than five years, or both. See Section 113(c) of the Act, 42 U.S.C. § 7413(c).

EFFECTIVE DATE AND APPLICABILITY

29. This AO shall take effect immediately, except that paragraph 22 shall take effect within

14 days of issuance. The AO shall apply to Derecktor, its officers, agents, servants, employees, successors, and assigns, and to all persons, firms, and corporations acting under, through, or for Derecktor. This action is not subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

30. If Derecktor has any questions regarding this AO/RR, please contact Environmental Engineer Joan Jouzaitis at (617) 918-1846 or Derecktor's legal counsel should contact Gregory Dain, Senior Enforcement Counsel, at (617) 918-1884. Derecktor may request an opportunity to confer with EPA within 14 days of issuance of this AO by contacting Ms. Jouzaitis or Mr. Dain at the phone numbers listed above.

Susan Studlien

Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region 1 – New England

01/11/11

Date